

IC 4-13-16.5

Chapter 16.5. Governor's Commission on Minority Business Development

IC 4-13-16.5-1

Definitions

Sec. 1. As used in this chapter:

"Commission" refers to the governor's commission on minority and women's business enterprises established under section 2 of this chapter.

"Commissioner" refers to the deputy commissioner for minority and women's business enterprises of the department.

"Contract" means any contract awarded by a state agency for construction projects or the procurement of goods or services, including professional services.

"Department" refers to the Indiana department of administration established by IC 4-13-1-2.

"Minority business enterprise" or "minority business" means an individual, partnership, corporation, limited liability company, or joint venture of any kind that is owned and controlled by one (1) or more persons who are:

- (1) United States citizens; and
- (2) members of a minority group.

"Owned and controlled" means having:

- (1) ownership of at least fifty-one percent (51%) of the enterprise, including corporate stock of a corporation;
- (2) control over the management and active in the day-to-day operations of the business; and
- (3) an interest in the capital, assets, and profits and losses of the business proportionate to the percentage of ownership.

"Minority group" means:

- (1) Blacks;
- (2) American Indians;
- (3) Hispanics;
- (4) Asian Americans; and
- (5) other similar minority groups, as defined by 13 CFR 124.103.

"Separate body corporate and politic" refers to an entity established by the general assembly as a body corporate and politic.

"State agency" refers to any authority, board, branch, commission, committee, department, division, or other instrumentality of the executive, including the administrative, department of state government.

"State educational institution" has the meaning set forth in IC 20-12-0.5-1.

As added by P.L.34-1983, SEC.1. Amended by P.L.18-1991, SEC.12; P.L.8-1993, SEC.21; P.L.195-2001, SEC.1; P.L.84-2004, SEC.1.

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References to federal statutes or regulations

Sec. 1.1. A reference to a federal statute or regulation in this chapter is a reference to the statute or regulation as in effect January 1, 2001.

As added by P.L.195-2001, SEC.2.

IC 4-13-16.5-1.3

"Women's business enterprise" defined

Sec. 1.3. As used in this chapter, "women's business enterprise" means a business that is one (1) of the following:

- (1) A sole proprietorship owned and controlled by a woman.
- (2) A partnership or joint venture owned and controlled by women in which:
 - (A) at least fifty-one percent (51%) of the ownership is held by women; and
 - (B) the management and daily business operations of which are controlled by at least one (1) of the women who owns the business.
- (3) A corporation or other entity:
 - (A) whose management and daily business operations are controlled by at least one (1) of the women who owns the business; and
 - (B) that is at least fifty-one percent (51%) owned by women, or if stock is issued, at least fifty-one percent (51%) of the stock is owned by at least one (1) of the women.

As added by P.L.195-2001, SEC.3.

IC 4-13-16.5-2

Governor's commission on minority and women's business enterprises

Sec. 2. (a) There is established a governor's commission on minority and women's business enterprises. The commission shall consist of the following members:

- (1) A governor's designee, who shall serve as chairman of the commission.
- (2) The commissioner of the Indiana department of transportation.
- (3) The director of the department of commerce.
- (4) The commissioner of the department.
- (5) Nine (9) individuals with demonstrated capabilities in business and industry, especially minority and women's business enterprises, appointed by the governor from the following geographical areas of the state:
 - (A) Three (3) from the northern one-third (1/3) of the state.
 - (B) Three (3) from the central one-third (1/3) of the state.
 - (C) Three (3) from the southern one-third (1/3) of the state.
- (6) Two (2) members of the house of representatives, no more than one (1) from the same political party, appointed by the speaker of the house of representatives to serve in a nonvoting advisory capacity.
- (7) Two (2) members of the senate, no more than one (1) from

the same political party, appointed by the president pro tempore of the senate to serve in a nonvoting advisory capacity.

Not more than six (6) of the ten (10) members appointed or designated by the governor may be of the same political party. Appointed members of the commission shall serve four (4) year terms. A vacancy occurs if a legislative member leaves office for any reason. Any vacancy on the commission shall be filled in the same manner as the original appointment.

(b) Each member of the commission who is not a state employee is entitled to the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided under IC 4-13-1-4 and in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each legislative member of the commission is entitled to receive the same per diem, mileage, and travel allowances established by the legislative council and paid to members of the general assembly serving on interim study committees. The allowances specified in this subsection shall be paid by the legislative services agency from the amounts appropriated for that purpose.

(d) A member of the commission who is a state employee but who is not a member of the general assembly is not entitled to any of the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.

(3) Other expenses actually incurred in connection with the member's duties.

(e) The commission shall meet at least four (4) times each year and at other times as the chairman deems necessary.

(f) The duties of the commission shall include but not be limited to the following:

(1) Identify minority and women's business enterprises in the state.

(2) Assess the needs of minority and women's business enterprises.

(3) Initiate aggressive programs to assist minority and women's business enterprises in obtaining state contracts.

(4) Give special publicity to procurement, bidding, and qualifying procedures.

(5) Include minority and women's business enterprises on solicitation mailing lists.

(6) Define the duties, goals, and objectives of the deputy commissioner of the department as created under this chapter to assure compliance by all state agencies, separate bodies

corporate and politic, and state educational institutions with state and federal legislation and policy concerning the awarding of contracts to minority and women's business enterprises.

(7) Establish annual goals:

(A) for the use of minority and women's business enterprises; and

(B) derived from a statistical analysis of utilization study of state contracts that are required to be updated every five (5) years.

(8) Prepare a review of the commission and the various affected departments of government to be submitted to the governor and the legislative council on March 1 and October 1 of each year, evaluating progress made in the areas defined in this subsection.

(g) The department shall adopt rules of ethics under IC 4-22-2 for commission members other than commission members appointed under subsection (a)(6) or (a)(7).

(h) The department shall furnish administrative support and staff as is necessary for the effective operation of the commission.

As added by P.L.34-1983, SEC.1. Amended by P.L.18-1990, SEC.4; P.L.31-1993, SEC.1; P.L.195-2001, SEC.4; P.L.42-2002, SEC.1; P.L.41-2003, SEC.1; P.L.84-2004, SEC.2.

IC 4-13-16.5-3

Deputy commissioner for minority and women's business enterprise development

Sec. 3. (a) There is created in the department a deputy commissioner for minority and women's business enterprise development. Upon consultation with the commission, the commissioner of the department, with the approval of the governor, shall appoint an individual who possesses demonstrated capability in business or industry, especially in minority or women's business enterprises, to serve as deputy commissioner to work with the commission in the implementation of this chapter.

(b) The deputy commissioner shall do the following:

(1) Identify and certify minority and women's business enterprises for state projects.

(2) Establish a central certification file.

(3) Periodically update the certification status of each minority or women's business enterprise.

(4) Monitor the progress in achieving the goals established under section 2(f)(7) of this chapter.

(5) Require all state agencies, separate bodies corporate and politic, and state educational institutions to report on planned and actual participation of minority and women's business enterprises in contracts awarded by state agencies. The commissioner may exclude from the reports uncertified minority and women's business enterprises.

(6) Determine and define opportunities for minority and women's business participation in contracts awarded by all state agencies, separate bodies corporate and politic, and state

educational institutions.

(7) Implement programs initiated by the commission under section 2 of this chapter.

(8) Perform other duties as defined by the commission or by the commissioner of the department.

As added by P.L.34-1983, SEC.1. Amended by P.L.31-1993, SEC.2; P.L.195-2001, SEC.5; P.L.84-2004, SEC.3.

IC 4-13-16.5-4

Determinations regarding goals; adoption of rules

Sec. 4. (a) Before January 1 of even-numbered years, the department shall determine whether, during the most recently completed two (2) year period ending the previous July 1, the goals set under section 2(f)(7) of this chapter have been met.

(b) The department shall adopt rules under IC 4-22-2 to ensure that the goals set under section 2(f)(7) of this chapter are met. Expenditures with business enterprises that qualify as both a minority business enterprise and a women's business enterprise may be counted toward the attainment of the goal for either:

(1) minority business enterprises; or

(2) women's business enterprises;

at the election made by the procurer of goods, services, or goods and services, but not both.

As added by P.L.195-2001, SEC.6. Amended by P.L.41-2003, SEC.2.

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Rules

Sec. 5. The Indiana department of administration may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.31-1993, SEC.3.

IC 4-13-16.5-6

Application of standards and certifications

Sec. 6. (a) Notwithstanding any other law, the standards developed under this chapter apply to the determination and certification of a business as a minority business enterprise or a women's business enterprise under any Indiana law.

(b) Notwithstanding any other law, a certification of a business as a minority business enterprise or a women's business enterprise under this chapter satisfies any Indiana law providing for or requiring the certification of a business as a minority business enterprise or a women's business enterprise.

As added by P.L.84-2004, SEC.4.

IC 4-13-16.5-7

Confidentiality of applicant materials

Sec. 7. For purposes of IC 5-14-3, materials containing:

(1) personal financial information; or

(2) confidential business information;

submitted by an applicant for certification as a minority business

enterprise or a women's business enterprise are confidential.
As added by P.L.84-2004, SEC.5.